



Federal Communications Commission
Washington, D.C. 20554

June 6, 2008

DA 08-1315

Small Entity Compliance Guide

Amendment of the Commission's Rules Governing Hearing Aid-Compatible Mobile Handsets

FCC 08-68
WT Docket No. 07-250

This Guide is prepared in accordance with the requirements of Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It is intended to help small entities—small businesses, small organizations (non-profits), and small governmental jurisdictions—to comply with the new rules adopted in the above-referenced FCC rulemaking docket. This Guide is not intended to replace the rules and, therefore, final authority rests solely with the rules. Although we have attempted to cover all parts of the rules that might be especially important to small entities, the coverage may not be exhaustive. In any civil or administrative action against a small entity for a violation of a rule or rules, the content of the Small Entity Compliance Guide may be considered as evidence of the reasonableness or appropriateness of proposed fines, penalties or damages. This Guide may not apply in a particular situation based upon the circumstances, and the FCC retains the discretion to adopt approaches on a case-by-case basis that may differ from this Guide, where appropriate. Any decisions regarding a particular small entity will be based on the statute and regulations. Interested parties are free to file comments regarding this Guide and the appropriateness of its application to a particular situation; the FCC will consider whether the recommendations or interpretations in the Guide are appropriate in that situation. The FCC may decide to revise this Guide without public notice to reflect changes in the FCC's approach to implementing a rule, or to clarify or update the text of the Guide. Direct your comments and recommendations, or calls for further assistance, to the FCC's Consumer Center:

1-888-CALL-FCC (1-888-225-5322)
TTY: 1-888-TELL-FCC (1-888-835-5322)
Fax: 202-418-0232
fccinfo@fcc.gov

1. Objectives of the Proceeding.

The actions the Commission took in this order are part of its continuing effort to ensure that Americans who rely on hearing aids have the fullest possible access to wireless telephone services (i.e., cell phone or mobile phone service). The Commission is required by law to ensure that persons with impaired hearing have reasonable access to telephone service (47 U.S.C. § 610) (Hearing Aid Compatibility Act), and that includes mobile services.

The Commission began this effort in 2003, by requiring that some of the handsets used with digital wireless public mobile services be able to function with hearing aids. We established technical criteria to determine which phones counted as being compatible with hearing aids, set up a schedule for both manufacturers and service providers to begin making such phones available, and required them to report back to us on their progress.

In the latest Order, we revised some of the deployment benchmarks, and added some new requirements to make sure that hearing aid-compatible phones are available with a variety of features and that they are periodically refreshed. We also updated the relevant technical standards and reporting requirements, and added some new requirements with regard to product labeling and public information outreach.

2. Definitions/Background.

Hearing aids operate in one of two modes – acoustic coupling or telecoil coupling. Hearing aids operating in acoustic coupling mode receive and amplify all sounds surrounding the user; both desired sounds, such as a telephone’s audio signal, as well as unwanted ambient noise. Hearing aids operating in telecoil coupling mode avoid unwanted ambient noise by turning off the microphone and receiving only signals from magnetic fields generated by telecoil-compatible telephones.

The rules for hearing aid compatibility of mobile phones are found in Part 20 of the Commission’s rules (specifically 47 CFR 20.19).

The ratings for phones are determined using a set of standards published by the American National Standards Institute (ANSI). Specifically, hearing aid compatibility is rated using ANSI Standard C63.19, “American National Standard for Methods of Measurement of Compatibility between Wireless Communication Devices and Hearing Aids.” Manufacturers may use either ANSI C63.19-2006 (published June 12, 2006) or ANSI C63.19-2007 (published June 8, 2007). Both are available for purchase from the American National Standards Institute (www.ansi.org or ANSI, 1819 L Street, NW, 6th floor, Washington, DC 20036 202-293-8020). ANSI C63.19 contains two sets of standards: an “M” rating (originally a “U” rating) from 1 to 4 for reduced radio frequency (RF) interference to enable acoustic coupling with hearing aids that do not operate in telecoil mode, and a “T” rating (originally a “UT” rating) from 1 to 4 to enable inductive coupling with hearing aids operating in telecoil mode. A digital wireless handset is considered hearing aid compatible for acoustic coupling if it meets at least an “M3” (or “U3”) rating under the ANSI standard. A digital wireless handset is considered hearing aid compatible for inductive coupling if it meets at least a “T3” (or “U3T”) rating under the ANSI standard.

3. Scope: Who must comply?

The Commission's rules for hearing aid compatibility for wireless phones apply to digital commercial mobile radio services (CMRS) that include real-time, two-way switched voice or data service that is interconnected with the public switched network and utilizes an in-network switching facility that enables the provider to reuse frequencies and accomplish seamless hand-offs of subscriber calls, and operate on the 800 -950 MHz or 1.6-2.5 GHz bands using any air interface for which technical standards are included the ANSI standards mentioned above. Providers of such services and manufacturers of the phones that are used in such services are required to comply with the rules. An exception exists for manufacturers which only offer one or two handset models to service providers, and service providers which only offer one or two phones to consumers (or which get their handsets only from manufacturers which themselves only offer one or two models to service providers).

Note: Digital wireless phones use a variety of systems by which they communicate with the base stations in a service network, known as "air interfaces." Each network generally uses only one kind of interface, although it can use more than one. The most common interfaces in the United States include CDMA, TDMA, GSM, and iDEN. The Commission's hearing aid compatibility rules apply on a "per air interface" basis. That is, both the total number of phones offered and the number which must be hearing aid-compatible are counted separately for each air interface. For example, for manufacturers making both CDMA and GSM phones, the requirements for how many compatible phones they must offer are measured separately for their CDMA and GSM product lines.

4. Requirements.

Manufacturers

--Manufacturers must offer a certain number of hearing aid-compatible handset models to service providers depending on the total number of handset models they offer over an air interface. There are different benchmarks for acoustic coupling and inductive coupling compatibility, and they vary by the number of handset models made and the year:

| Total handset models offered to service providers | Number which must be hearing aid compatible for acoustic coupling (i.e., achieve an M3 or M4 rating): |
|--|--|
| 1 – 2 | None |
| 3 | 1 |
| 4-6 | 2 |
| More than 6 | One third of the total* |
| | |
| | Number which must be hearing aid-compatible for inductive coupling (i.e., achieve a T3 or T4 rating): |
| 1-2 | None |
| 3 | 1 |

| | |
|-----------|--|
| 4 or more | Until February 15, 2009: 2 |
| | From February 15, 2009 to February 14, 2010: Two or at least 20% of the total number of models offered, whichever is greater.* |
| | From February 15, 2010 to February 14, 2011: Two or at least 25% of the total number of models offered, whichever is greater.* |
| | From February 15, 2011 onward: Two or at least one-third of the total number of models offered, whichever is greater.* |
| | *In the event any of these calculations yields a fraction, the number of hearing aid-compatible models required is obtained by rounding the fraction down to the nearest whole number. |

Each compatible handset must clearly display the compatibility rating (M3, M4, T3 or T4) on the package labeling; if a handset incorporates Wi-Fi features the manufacturer must disclose to consumers that the model has not been rated for hearing aid compatibility with respect to Wi-Fi operation. Also, an explanation of the ANSI rating system must be included in the user's manual or as an insert in the product packaging.

--In addition to the numerical benchmarks above, in any year (2009 or later) in which a manufacturer introduces at least one new model of any kind, it must update its acoustic coupling-compatible model offerings as well. In that case, one half of the number of models (rounded up) that are required to be compatible must be new each year (unless a manufacturer makes only three models over a particular air interface, in which case it only one needs to make one new hearing aid-compatible model every other year; as always, two or fewer models means no requirement). This requirement does not apply to the inductive coupling standard.

--Manufacturers must file periodic reports with the Commission. They are due on January 15, 2009, July 15, 2009, then annually every subsequent July 15. Reports filed by manufacturers must include:

(A) Digital wireless handset models tested, since the most recent report, for compliance with the applicable hearing aid compatibility technical ratings;

(B) Compliant handset models offered to service providers since the most recent report, identifying each model by marketing model name/number(s) and FCC ID number;

(C) For each compliant model, the air interface(s) and frequency band(s) over which it operates, the hearing aid compatibility ratings for each frequency band and air interface under ANSI Standard C63.19, the ANSI Standard C63.19 version used, and the months in which the model was available to service providers since the most recent report;

(D) Non-compliant models offered to service providers since the most recent report, identifying each model by marketing model name/number(s) and FCC ID number;

(E) For each non-compliant model, the air interface(s) over which it operates and the months in which the model was available to service providers since the most recent report;

(F) Total numbers of compliant and non-compliant models offered to service providers for each air interface as of the time of the report;

(G) Any instance, as of the date of the report or since the most recent report, in which multiple compliant or non-compliant devices were marketed under separate model name/numbers but constitute a single model for purposes of the hearing aid compatibility rules, identifying each device by marketing model name/number and FCC ID number;

(H) Status of product labeling;

(I) Outreach efforts; and

(J) If the manufacturer maintains a public website, the website address of the page(s) containing the required information regarding hearing aid-compatible handset models (see below).

--Ordinarily, manufacturers are free to determine how to designate different models. But if one makes “physical changes to a handset that result in a change to the hearing aid compatibility rating,” the changed version must be given a new model designation.

--Beginning January 15, 2009, each manufacturer subject to these rules that operates a publicly-accessible website must make available on its website a list of all hearing aid-compatible models currently offered, the ratings of those models, and an explanation of the rating system. (Manufacturers are encouraged to make available additional information as well.)

--To facilitate resolution of informal complaints about these rules, manufacturers must designate an agent for service of notices and other pronouncements of the Commission.

--Recordkeeping Requirements. There are no specific recordkeeping requirements with regard to hearing aid compatibility of handset models, beyond maintaining enough information to comply with the reporting and outreach requirements noted above.

Service Providers

--Service providers that may be small entities must offer a certain number of hearing aid-compatible handset models to consumers depending on the total number of handset models they offer over an air interface. (The four nationwide service providers are subject to the same rules, but some of the compliance deadlines are earlier for them). The following table summarizes those numerical requirements; please refer to the text of the regulations for the full details.

| Total Number of Handsets Offered to Consumers | Number which must be hearing aid compatible for acoustic coupling (i.e., achieve an M3 or M4 rating): |
|--|--|
| 65 | None |
| 1-2 | |
| 3 | One |
| 4 or more | Until September 7, 2008: Two. |
| | From September 7, 2008 to May 15, 2009: 50% of the number of models offered, or a minimum of eight, whichever is less.* |
| | From May 15, 2009 to May 14, 2010: 50% of the number of models offered, or a minimum of nine, whichever is less.* |
| | From May 15, 2010 and thereafter: 50% of the number of models offered, or a minimum of ten, whichever is less.* |
| | |
| | Number which must be hearing aid compatible for inductive coupling (i.e., achieve an T3 or T4 rating): |
| 1-2 | None |
| 3 | 1 |
| 4 or more | Until September 7, 2008: Two. |
| | From September 7, 2008 to May 14, 2009: One third of the total number of handsets offered, or a minimum of 3, whichever is less.* |
| | From May 15, 2009 to May 14, 2010: One third of the total number of handsets offered, or a minimum of 5, whichever is less.* |
| | From May 15, 2010 to May 14, 2011: One third of the total number of handsets offered, or a minimum of 7, whichever is less.* |
| | From May 15, 2011 and thereafter: One third of the total number of handsets offered, or a minimum of 10, whichever is less.* |
| | *In the event any of these calculations yields a fraction, the number of hearing aid-compatible models required is obtained by rounding the fraction up to the nearest whole number. |

Each compatible handset must clearly display the compatibility rating (M3, M4, T3 or T4) on the package labeling; if a handset incorporates Wi-Fi features the service provider must disclose to consumers that the model has not been rated for hearing aid compatibility with respect to Wi-Fi operation. Also, an explanation of the ANSI rating system must be included in the user's manual or as an insert in the product packaging.

--Each service provider must offer its customers a range of hearing aid-compatible models with differing levels of functionality (e.g., operating capabilities, features offered, prices). Each provider may determine the criteria for determining these differing levels of functionality, and must disclose its methodology to the Commission in its annual reports.

--Service providers must report annually beginning January 15, 2009 on their progress toward offering hearing aid-compatible handsets. Reports filed by service providers must include:

(A) Compliant handset models offered to customers since the most recent report, identifying each model by marketing model name/number(s) and FCC ID number;

(B) For each compliant model, the air interface(s) and frequency band(s) over which it operates, the hearing aid compatibility ratings for each frequency band and air interface under ANSI Standard C63.19, and the months in which the model was available since the most recent report;

(C) Non-compliant models offered since the most recent report, identifying each model by marketing model name/number(s) and FCC ID number;

(D) For each non-compliant model, the air interface(s) over which it operates and the months in which the model was available since the most recent report;

(E) Total numbers of compliant and non-compliant models offered to customers for each air interface over which the service provider offers service as of the time of the report;

(F) Information related to the retail availability of compliant handset models;

(G) The levels of functionality into which the compliant handsets fall and an explanation of the service provider's methodology for determining levels of functionality;

(H) Status of product labeling;

(I) Outreach efforts; and

(J) If the service provider maintains a public website, the website address of the page(s) containing the required information regarding hearing aid-compatible handset models (see below).

--Beginning January 15, 2009, each service provider subject to these rules that operates a publicly-accessible website must make available on its website a list of all hearing aid-compatible models currently offered, the ratings of those models, and an explanation of the rating system. Each service provider must also specify on its website, based on the levels of functionality that the service provider has defined, the level that each hearing aid-compatible model falls under as well as an explanation of how the functionality of the handsets varies at the different levels.

--Each service provider must make available for consumers to test, in each retail store owned or operated by the provider, all of its handset models that are hearing aid-compatible.

--Recordkeeping Requirements. There are no specific recordkeeping requirements with regard to hearing aid compatibility of handset models, beyond maintaining enough information to comply with the reporting and outreach requirements noted above.

--To facilitate resolution of informal complaints about these rules, service providers must designate an agent for service of notices and other pronouncements of the Commission.

Sources and Links

The text of the Order can be found on the Commission's web site:

http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-08-68A1.doc (23 FCC Rcd 3406 (2008))

The Press Release announcing the new rules can be found at:

http://www.fcc.gov/Daily_Releases/Daily_Business/2008/db0228/DOC-280525A1.doc

The American National Standards Institute web site is:

www.ansi.org

A Consumer Fact Sheet on this issue can be found at:

http://www.fcc.gov/cgb/consumerfacts/hac_wireless.html